



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,150	01/04/2002	Jeffrey Allen Sturgill	UVD 0299 PA	7448

7590 04/04/2006

Killworth, Gottman, Hagan & Schaeff, L.L.P.
Suite 500
One Dayton Centre
Dayton, OH 45402-2023

EXAMINER

KASTLER, SCOTT R

ART UNIT	PAPER NUMBER
----------	--------------

1742

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/038,150	Applicant(s) STURGILL ET AL.	
	Examiner Scott Kastler	Art Unit 1742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-53 and 123-126 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-31,33,35-53 and 123-126 is/are rejected.
- 7) ☒ Claim(s) 11,32 and 34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/23/06, 2/6/06</u> | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1742

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-10, 12-31, 33, 35-43 and 123-126 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese patents 77 06,258, 76 42,057, 74 34,929 and 74 14,621. Japanese patents 77 06,258, 76 42,057, 74 34,929 and 74 14,621, as described in pages 9 and 10 of the specification submitted by the applicant on 3/7/2002 for example, teaches compositions for seals which meet the requirements of the instant claims, including both a trivalent cobalt compound and a valence stabilizer compound.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 44-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese patents 77 06,258, 76 42,057, 74 34,929 and 74 14,621 in view of Ouyang et al. As applied to claim 1 above, Japanese patents 77 06,258, 76 42,057, 74 34,929 and 74 14,621 show all aspects of the above claims except to expressly teach the instantly

Art Unit: 1742

claimed coloring or coloring additives for the coatings. Ouyang et al teaches that it was known in the art at the time the invention was made to employ colorings and coloring additives in coatings of the type taught by Japanese patents 77 06,258, 76 42,057, 74 34,929 and 74 14,621 in order to provide the coatings with desirable color properties.

Motivation to include the colorings and coloring additives of Ouyang et al in the compositions taught by Japanese patents 77 06,258, 76 42,057, 74 34,929 and 74 14,621 would have been a modification obvious to one of ordinary skill in the art at the time the invention was made because Japanese patents 77 06,258, 76 42,057, 74 34,929 and 74 14,621 would also desire the improved coloring properties provided by the coloring and coloring additives taught by Ouyang et al.

Allowable Subject Matter

Claims 11, 32 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed on 2/23/2006 have been fully considered but they are not persuasive. Applicant's arguments that since all mention of the admitted prior art of the instant disclosure (Japanese patents 77 06,258, 76 42,057, 74 34,929 and 74 14,621) in the specification have been removed, that the Japanese patents 77 06,258, 76 42,057, 74 34,929 and 74 14,621 cannot be relied upon to anticipate the instant claims is not

Art Unit: 1742

persuasive because applicant's description of these references in the manner relied upon by the examiner are of record in the instant application and admissions by the applicant, not only description in the specification can be applied as prior art. See MPEP 2129.

Applicant's further argument that the Japanese patents cited do not teach the employment of valence stabilizers to maintain the chromium in a +3 state is not persuasive because as stated in the above rejection, applicant's admission, in the specification submitted on 3/7/2002 states that "The processes described in these patents "could" possibly have resulted in the achievement of some trivalent cobalt/valence stabilizer complexes within the pores, resulting in increased corrosion resistance noted by Ohta." (page 9, lines 21-24 of the substitute specification filed on 3/7/2002).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

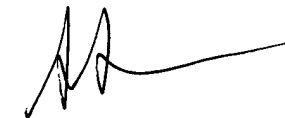
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 1742

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Kastler whose telephone number is (571) 272-1243. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Scott Kastler
Primary Examiner
Art Unit 1742

sk